

## **REMARKS**

In complete response to the Office Action of January 26, 2005, on the above-identified application, claims 37-49 and 60-70 remain in this application. Claim 39 has been amended to correct a grammatical error. Claims 1-15 have been cancelled. Claims 17-36, and 50-59 have been withdrawn from consideration.

## **CLAIM REJECTIONS UNDER 35 U.S.C. § 112**

Claims 40, 44, and 73 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claim 40 has been amended to include the term "oil-in-water type emulsifying agent or water-in-oil type" to particularly point out the subject matter of that claim.

Claim 44 has been amended to make it dependent upon claim 38 rather than claim 38, thereby overcoming the rejection that the range stated in claim 44 is outside the range stated in claim 38.

Claim 72 has been amended to make it an independent claim, thereby rendering the rejection of Claim 73 moot.

## **CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

Claims 37-49, 60, 62-65, 71, and 74-79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang et al. '003. Applicants respectfully submit that the present invention is not unpatentable over Chang et al. '003.

Claim 37 requires the following six elements:

- (1) an oily phase,
- (2) an aqueous phase,
- (3) at least one water-in-oil type emulsifying agent,
- (4) at least one oil-in-water type emulsifying agent,
- (5) said water-in-oil type emulsifying agent or said oil-in-water type emulsifying agent comprises at least one cationic polyelectrolyte composition, and

- (6) said cationic polyelectrolyte composition comprises a plurality of copolymerized monomeric units of at least one cationic monomer with at least one neutral monomer and at least one nonionic surfactant monomer.

Chang et al. '003 fails to disclose at least one oil-in-water emulsifying agent, or a cationic polyelectrolyte composition comprised of at least one cationic monomer, at least one neutral monomer and at least one nonionic surfactant monomer.

The Examiner notes that once the general condition of a claim is envisaged, the optimum proportions of the individual components may be determined by ordinary experimentation by one skilled in the art. Applicants respectfully assert that one skilled in the art would not find that the general condition of claim 37, and thereby all the claims that are dependent upon claim 37, has been envisaged by Chang et al. '003. Therefore, it is believed that the basis of rejection deserves reconsideration.

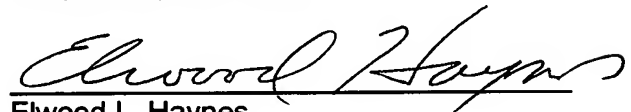
#### **ALLOWABLE SUBJECT MATTER**

Applicants gratefully acknowledge the indication that claims 61, 66-70, and 72-73 would be allowable if rewritten in independent form, including all limitations of the base claim and any intervening claims. Claims 61, 66-70 and 72 have been so amended.

#### **CONCLUSION**

In view of the forgoing, Applicants respectfully request early and favorable consideration of the subject application.

Respectfully submitted,



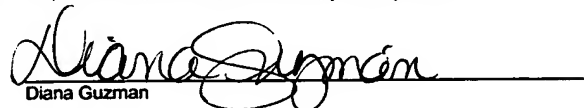
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#### **CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 26<sup>th</sup> day of May, 2005.

  
Diana Guzman